

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ROME DIVISION**

CHARLES COLE, THOMAS
GARRETT, AND
SUSAN GARRETT,

Plaintiffs,

V.

ERIC LEWIS AND RICK BARNES,

Defendants.

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) CIVIL ACTION FILE NO.:
) 4:05-CV-086

PLAINTIFFS' MOTION TO RENEW JUDGMENT

Plaintiffs, for the reasons set forth in the accompanying memorandum, move to renew their judgment against Defendants.

GARY BUNCH, P.C.

By:

Gary Bunch
Georgia Bar Number 094612
Attorney for Plaintiffs Charles
Cole, Thomas Garrett, and
Susan Garrett

527 Tanner Street
Carrollton, Georgia 30117
(770) 836-0405

October 31, 2018

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ROME DIVISION**

CHARLES COLE, THOMAS)	
GARRETT, AND SUSAN GARRETT,)	
)	
Plaintiffs,)	
)	CIVIL ACTION FILE NUMBER
v.)	4:05-CV-86
)	
ERIC LEWIS AND RICK BARNES,)	
)	
Defendants.)	

**PLAINTIFFS' MEMORANDUM IN SUPPORT OF THEIR MOTION TO
RENEW JUDGMENT**

A.

INTRODUCTION

Plaintiffs move to renew the judgment obtained in this action February 24, 2011. Good grounds support Plaintiffs' motion. Accordingly, the motion should be granted.

B.

PLAINTIFFS' ENTITLEMENT TO A RENEWED JUDGMENT

1.

The Court, February 24, 2011, entered a \$226,176.70 Judgment against Defendants.

2.

The Judgment is broken down with the amounts owed to each Plaintiff as follows: \$133,031.36 to Charles Cole, \$46,572.67 to Susan Garret and \$46,572.67 to Thomas Garrett.

3.

A copy of the Judgment is attached hereto as Exhibit "A"

4.

The Judgment has not been paid in full.

5.

\$63,782.21 plus unpaid interest is still owed to Charles Cole on the Judgment.

6.

\$16,194.09 plus unpaid interest is still owed to Thomas Garrett on the Judgment.

7.

\$16,847.31 plus unpaid interest is still owed to Susan Garrett on the Judgment.

8.

There is a total of \$96,823.61 plus unpaid interest still owed to the Plaintiffs on the Judgment.

Georgia law provides two methods to revive a judgment after dormancy in the form of an action to renew a dormant judgment or petition for scire facias within three years from the time that the judgment becomes dormant. O.C.G.A. 9-12-60(a). The scire facias is not an original action, but the continuation of the suit in which the judgment was obtained. Oxford v. Generator Exchange, Inc., 99 Ga. App. 290 (1959).

A scire facias “must issue from and be returnable to the court of the county in which the judgment was obtained.” O.C.G.A. 9-12-63. Defenses to the scire facias cannot go behind the judgment.” Weaver v. Webb, 3 Ga. App. 726 (1908).

In order to revive a dormant judgment, it is not necessary that the original judgment was ever recorded on the general execution docket (Watkins v. Citizens & Southern National Bank, 163 Ga. App. 468, Bowers v. Jim Rainwater Builder & Properties, Inc., 203 Ga. App. 254 (1992).) or that a bona fide effort be made prior to bringing the revival action. Malloy v. First Georgia Bank, 178 Ga. App. 797 (1986).

C.

CONCLUSION

For the foregoing reasons, the Judgment should be renewed jointly and severally against Defendants in the following amounts:

- \$63,782.21 plus unpaid interest in favor of Charles Cole.
- \$16,194.09 plus unpaid interest in favor of Thomas Garrett.
- \$16,847.31 plus unpaid interest in favor of Susan Garrett.

**Respectfully submitted,
GARY BUNCH P.C.**

By: 

Gary Bunch
Georgia Bar Number 094612
Attorney for Plaintiffs,
Charles Cole, Thomas Garrett,
and Susan Garrett

527 Tanner Street
Carrollton, Georgia 30117
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October 31, 2018

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ROME DIVISION

CHARLES COLE, THOMAS GARRETT,
and SUSAN GARRETT,

Plaintiffs,

vs.

ERIC LEWIS and RICK BARNES,

Defendants.

CIVIL ACTION FILE

NO.4:05-cv-86-RLV

JUDGMENT ON BENCH TRIAL

This action came on for bench trial before the Court, the Honorable Robert L. Vining, Jr., U.S. District Judge presiding. The Findings of Fact and Conclusions of Law as required by Rule 52 of the F.R.C.P, it is

Ordered and Adjudged that judgment be entered in favor of Charles Cole and against Rick Barnes and Eric Lewis, jointly and severally, in the amount of \$133,031.36 (representing \$111,430 in principal and \$21,601.36 in pre-judgment interest); in favor of Thomas Garrett and against Rick Barnes and Eric Lewis, joint and severally, in the amount of \$46,572.67 (representing \$41,410 in principal and \$4,162.67 in pre judgment interest); and in favor of Susan Garrett and against Rick Barnes and Eric Lewis, jointly and severally, in the amount of \$46,572.67(representing \$41,410 in principal and \$4,162.67 in pre-judgment interest).

JAMES N. HATTEN
CLERK OF COURT

By: s/J. Acker
Deputy Clerk

Prepared, filed, and entered
in the Clerk's Office

February 24, 2011

James N. Hatten

Clerk of Court

By: s/J. Acker

Deputy Clerk

CERTIFICATE OF SERVICE

I hereby certify that I have this day caused to be served upon the other party a copy of **PLAINTIFFS' MOTION TO RENEW JUDGMENT** by causing a true and correct copy thereof to be sent by Certified United States Postal Services in a properly addressed envelope with sufficient postage to Defendant Eric Lewis at:

Eric Lewis
151 Meadow Lakes Blvd.
Cedartown, Georgia 30125

And to Defendant Rick Barnes at:

Rick Barnes
18920 Peninsula Point Drive
Cornelius, NC 28037

This the 31 day of October, 2018.



Gary Bunch